



Credit Union National Association

CUNA Issue Summary

TROUBLED ASSETS RELIEF PROGRAM

The Troubled Asset Relief Program (TARP) was created by an act of Congress in 2008 and was originally designed to purchase troubled mortgage-backed securities and toxic mortgages. These assets, held by investors and by America's financial institutions, suffered massive devaluations as a result of declining home values. These toxic mortgage assets threatened the solvency of many financial institutions as home foreclosures and bankruptcies increased. In addition, the "fair market value" accounting standards in place painted an unfair and inaccurately bleak view of the intrinsic, long-term value of mortgage assets. This led regulators and the public to question the viability of many financial institutions.

On October 3, 2008, President Bush signed into law H.R. 1424, the *Emergency Economic Stabilization Act* (EESA). This new law gave the Treasury Department the authority to purchase \$700 billion of toxic mortgage assets, allowing financial institutions to improve their balance sheets and avoid bankruptcy.

Of interest to credit unions, the legislation included:

- A temporary increase in federal share insurance coverage to the same extent permitted for FDIC insured banks;
- Eligibility to sell assets under the troubled assets purchase program, if needed;
- Suspension of the mark-to-market accounting rules and a study on these standards; and
- An immediate effective date for the payment of interest by the Federal Reserve on institutions' reserves posted on transaction accounts under Regulation D

Below is a summary of H.R. 1424, the *Emergency Economic Stabilization Act* (EESA):

Insurance Coverage

- The new law raised the maximum insurance coverage for federally insured shares and deposits at credit unions and banks from \$100,000 to \$250,000 (the current \$250,000 limit on Individual Retirement Accounts and other certain retirement accounts was not impacted by the new law).
- The increase in the coverage amount is effective through December 31, 2009. However, many in Congress have expressed support for making these higher coverage amounts permanent.
- The law precluded an insurance premium from credit unions or an adjustment to their 1% deposit to fund the additional coverage. This means that funding for the coverage will come from the National Credit Union Share Insurance Fund's operating funds or reserves.

Troubled Assets Relief Program

- The Treasury Secretary was authorized to spend \$700 billion to purchase troubled assets. The Secretary was authorized to use \$250 billion immediately and use up to \$350 billion if the President submitted a written certification to Congress. In order to use the full amount, the President was required to submit a report to Congress detailing the plan to use the funds, and Congress was given the authority to disapprove the plan.
- Credit unions were included in the definition of “financial institutions” that were eligible to sell troubled assets to the U.S. Treasury under the Troubled Assets Relief Program.
- Troubled assets included residential or commercial mortgages and other instruments “based on or related to” mortgages that have been originated or issued on or before March 14, 2008.
- Authority for the program ends December 31, 2009, unless the Treasury certifies to Congress the need to extend it for another year.
- Institutions were required to provide warrants or debt instruments to Treasury to protect taxpayers against losses that may result from the program.
- In five years, the President is required to submit to Congress a legislative proposal that recoups from the financial industry any projected losses to taxpayers.

Foreclosure Mitigation

- Treasury was required to implement a plan to maximize homeowner assistance and to encourage servicers of the underlying mortgages purchased through TARP to take advantage of the HOPE for Homeowners Program.
- Treasury was authorized to use loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures.
- The government was also authorized to minimize foreclosures on properties underlying the mortgages and mortgage-backed securities the government purchases.

Payment of Interest on Federal Reserve Deposits

- The *Monetary Control Act* requires financial institutions, including covered credit unions, to post reserves on certain transaction accounts, under Regulation D. Under the *Financial Services Regulatory Relief Act of 2006*, the Federal Reserve is authorized to pay interest on these reserves beginning in 2011. The legislation allowed the payment of interest to begin immediately.

On October 14, 2008, Treasury Secretary Hank Paulson announced revisions to the TARP program. Paulson stated that Treasury would use TARP funds to buy preferred stock in banks, instead of using the funds primarily for buying toxic mortgages and mortgage-backed securities. Paulson stated that cash infusions into troubled banks would be a better way to improve banks' balance sheets and encourage them to start providing more credit to the financial markets. This had the effect of excluding credit unions from participation in the program because credit unions do not issue stock.

On January 12, 2009, at the request of President-elect Barack Obama, President George Bush agreed to ask Congress for the second half (\$350 billion) of the Troubled Asset Relief Program funds. Under EESA, Congress was given a limited time to disapprove of the release of the remaining funds. On January 15, 2009, the Senate defeated a motion to prohibit the release of the funds. Later, the House of Representatives voted to disapprove of the release of the funds. However, the vote was symbolic because both the House and Senate were required to disapprove of the funding release.

Nevertheless, the House did pass legislation (H.R. 384) seeking to place new requirements and restrictions on the use of the remaining TARP funds. Prior to consideration of the bill in committee, CUNA raised issues related to credit union exclusion from participation in TARP. CUNA identified several issues with both H.R. 384 as well as Treasury's implementation of TARP, including:

- the absence of substantive reference to credit unions in the reform legislation;
- credit union support for additional focus on loan modification and foreclosure mitigation;
- the statutory barriers to credit union participation in the TARP program;
- the need for NCUA to have systemic risk authority similar to FDIC; and
- the need for NCUA to have lending authority that is on par with FDIC.

Representative Joe Baca (D-CA) was able to get language added to the manager's amendment to H.R. 384 to permit credit unions to count funds received from the federal government and state governments in the calculation of net worth. CUNA believes that this is a strong statement that the House of Representatives wants credit unions to have access to TARP funds and that they are willing to change law if Treasury does not facilitate credit union access. In addition, H.R. 384 also includes language that would make permanent the increase share insurance coverage to \$250,000. At this time, it appears that the Senate will not take up this legislation. However, it expresses a sense of the House that certain changes need to be made regarding how TARP is administered.

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RELATED DOCUMENTS:

[January 22, 2009: Letter from CUNA President and CEO Dan Mica to Senate Finance Committee Chairman Max Baucus \(D-MT\) and Ranking Member Chuck Grassley \(R-IA\) regarding the nomination of Timothy Geithner to be Secretary of the Treasury](#)

[January 13, 2009: Letter from CUNA President and CEO Dan Mica to House Financial Services Committee Chairman Barney Frank \(D-MA\) and Ranking Member Spencer Bachus \(R-AL\) regarding the H.R. 384, the TARP Reform and Accountability Act](#)

[November 17, 2008: Letter from CUNA President and CEO Dan Mica to House Financial Services Chairman Barney Frank \(D-MA\) and Ranking Member Spencer Bachus \(R-AL\) regarding the implementation of the Emergency Economic Stabilization Act](#)

[October 2, 2008: Letter from CUNA President and CEO Dan Mica to Members of the United States House of Representatives regarding the Emergency Economic Stabilization Act](#)

 [SUMMARY OF H.R. 384 – the TARP REFORM AND ACCOUNTABILITY ACT OF 2009](#)

LAST UPDATED: January 29, 2009

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